

109TH CONGRESS
2D SESSION

S. 3963

To amend title XVIII of the Social Security Act to provide for improved access to cost-effective, quality physical medicine and rehabilitation services under part B of the Medicare program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2006

Mr. THOMAS (for himself and Mr. SPECTER) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to provide for improved access to cost-effective, quality physical medicine and rehabilitation services under part B of the Medicare program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Access to Physical
5 Medicine and Rehabilitation Services Improvement Act of
6 2006”.

1 **SEC. 2. ACCESS TO PHYSICAL MEDICINE AND REHABILITA-**
 2 **TION SERVICES PROVIDED INCIDENT TO A**
 3 **PHYSICIAN.**

4 Section 1862(a)(20) of the Social Security Act (42
 5 U.S.C. 1395y(a)(20)) is amended by striking “(other than
 6 any licensing requirement specified by the Secretary)” and
 7 inserting “(other than any licensing, education, or
 8 credentialing requirements specified by the Secretary)”.

9 **SEC. 3. COVERAGE OF CERTIFIED ATHLETIC TRAINER**
 10 **SERVICES AND CERTIFIED LYMPHEDEMA**
 11 **THERAPIST SERVICES UNDER PART B OF THE**
 12 **MEDICARE PROGRAM.**

13 (a) COVERAGE OF SERVICES.—Section 1861 of the
 14 Social Security Act (42 U.S.C. 1395x) is amended—

15 (1) in subsection (s)(2)—

16 (A) in subparagraph (Z), by striking
 17 “and” at the end;

18 (B) in subparagraph (AA), by adding
 19 “and” at the end; and

20 (C) by adding at the end the following new
 21 subparagraph:

22 “(BB) certified athletic trainer services (as de-
 23 fined in subsection (ccc)(1)) and lymphedema thera-
 24 pist services (as defined in subsection (ccc)(3)).”;
 25 and

3 “Athletic Trainer Services and Lymphedema Therapist
4 Services

15 “(A) who is under the care of a physician (as
16 so defined); and

21 Such term does not include any services for which a facil-
22 ity or other provider charges or is paid any amounts with
23 respect to the furnishing of such services.

24 “(2) The term ‘certified athletic trainer’ means an
25 individual who—

1 “(A) possesses a bachelor’s, master’s, or doc-
2 toral degree which qualifies for licensure or certifi-
3 cation as an athletic trainer; and

4 “(B) in the case of an individual performing
5 services in a State that provides for licensure or cer-
6 tification of athletic trainers, is licensed or certified
7 as an athletic trainer in such State.

8 “(3) The term ‘certified lymphedema therapist serv-
9 ices’ means services performed by a certified lymphedema
10 therapist (as defined in paragraph (4)) under the super-
11 vision of a physician (as defined by paragraph (1) or (3)
12 of section 1861(r)) which the lymphedema therapist is le-
13 gally authorized to perform under State law (or the State
14 regulatory mechanism provided by the State law) of the
15 State in which such services are performed, as would oth-
16 erwise be covered if furnished by a physician (as so de-
17 fined) or as incident to a physicians professional service,
18 to an individual—

19 “(A) who is under the care of a physician (as
20 so defined); and

21 “(B) with respect to whom a plan prescribing
22 the type, amount, and duration of services that are
23 to be furnished to such individual has been estab-
24 lished by a physician (as so defined).

1 Such term does not include any services for which a facil-
2 ity or other provider charges or is paid any amounts with
3 respect to the furnishing of such services

4 “(4) The term ‘certified lymphedema therapist’
5 means an individual who—

6 “(A) possesses a current unrestricted license as
7 a health professional in the State in which he or she
8 practices;

9 “(B) after obtaining such a license, has success-
10 fully completed 135 hours of Complete Decongestive
11 Therapy coursework which consists of theoretical in-
12 struction and practical laboratory work utilizing
13 teaching methods directly aimed at the treatment of
14 lymphatic and vascular disease from a lymphedema
15 training program recognized by the Secretary for
16 purposes of certifying lymphedema therapists; and

17 “(C) in the case of an individual performing
18 services in a State that provides for licensure or cer-
19 tification of lymphedema therapists, is licensed or
20 certified as a lymphedema therapist in such State.”.

21 (b) PAYMENT.—

22 (1) IN GENERAL.—Section 1832(a)(2)(B) of the
23 Social Security Act (42 U.S.C. 1395k(a)(2)(B)) is
24 amended by adding at the end the following new
25 clause:

1 “(v) athletic trainer services and
2 lymphedema therapist services; and”.

3 (2) AMOUNT.—Section 1833(a)(1) of the Social
4 Security Act (42 U.S.C. 1395l(a)(1)) is amended—

5 (A) by striking “and (V)” and inserting
6 “(V)”; and

7 (B) by inserting before the semicolon at
8 the end the following: “, and (W) with respect
9 to athletic trainer services and lymphedema
10 therapist services under section
11 1861(s)(2)(BB), the amounts paid shall be 80
12 percent of the lesser of the actual charge for
13 the service or the fee schedule amount under
14 section 1848 for the same service performed by
15 a physician”.

16 (c) INCLUSION OF SERVICES IN THE THERAPY
17 CAP.—Services provided by a certified athletic trainer or
18 a certified lymphedema therapist (as those terms are de-
19 fined in section 1861(ccc) of the Social Security Act, as
20 added by subsection (a)) shall be subject to the limitation
21 on payments described in section 1833(g) of such Act (42
22 U.S.C. 1395l(g)) in the same manner those services would
23 be subject to limitation if the service had been provided
24 by a physician personally.

1 (d) INCLUSION OF ATHLETIC TRAINERS AND
 2 LYMPHEDEMA THERAPISTS AS PRACTITIONERS FOR AS-
 3 SIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) of the
 4 Social Security Act (42 U.S.C.1395u(b)(18)(C)) is amend-
 5 ed by adding at the end the following new clauses:

6 “(vii) A certified athletic trainer (as defined in
 7 section 1861(ccc)(1)).

8 “(viii) A certified lymphedema therapist (as de-
 9 fined in section 1861(ccc)(2)).”.

10 (e) COVERAGE OF CERTAIN PHYSICAL MEDICINE
 11 AND REHABILITATION SERVICES PROVIDED IN RURAL
 12 HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH
 13 CENTERS.—

14 Section 1861(aa)(1)(B) of the Social Security Act
 15 (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking “or
 16 by a clinical social worker (as defined in subsection
 17 (hh)(1))” and inserting “, by a clinical social worker (as
 18 defined in subsection (hh)(1)), by a certified athletic train-
 19 er (as defined in subsection (ccc)(2)), or by a certified
 20 lymphedema therapist (as defined in subsection (ccc)(4))”.

21 (f) EFFECTIVE DATE.—The amendments made by
 22 this section shall apply with respect to services furnished
 23 on or after January 1, 2007.

